

## REMARKS

Reconsideration and further examination of the subject patent application in light of the present Amendment and Remarks is respectfully requested.

Claims 1-22 are currently pending in the application. Claims 1-22 stand rejected.

### Rejections Under 35 U.S.C. §112

Claims 2-22 have been rejected under 35 U.S.C. §112, second paragraph as being indefinite. Applicant respectfully traverses this rejection.

The Examiner asserts that "Claims 2-4, 10-12 are inconsistent . . . The base claims states that customer data is released to the vendor in summary form . . . yet claims 2-4 and 10-12 appear to describe only the embodiment where promotional material is accomplished via the POS" (Office Action of 4/7/06, page 2). However, the applicant wishes to point out that even where the database distributes promotional materials at a POS, the vendor would still require the right to audit the customer results found by any search by the database based upon a customer profile. The audit would accomplish the very important function of verifying that the customer profile provided to the database was, in fact, identifying the type of customer that is to be targeted by the vendor. A comparison of the customer profile with the summary of customer data returned to the vendor by the database would allow the vendor to accomplish that function. Therefore, the claims are not inconsistent.

The Examiner asserts that "Claims 9, 17 are apparatus claims, yet they are presented with limitations that appear to be method steps rather than

structure, rendering the claims scope unclear" (Office Action of 4/7/06, page 2). In response, claims 9 and 17 have been amended accordingly to avoid this objection.

#### Rejections Under 35 U.S.C. §102

Claims 1-5, 8-13, 16-19 and 22 have been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Pat. Appl. No. US 2003/0018613 to Oytac. Applicant respectfully traverses this rejection.

Submitted herewith is a Declaration under 37 CFR §1.131. Also included herewith is a MEMO from the file of the above-identified application showing the undersigned attorney was retained to prepare the above-identified application on October 2, 2000. Also attached is an e-mail from the inventor, Mr. Bernstein, dated December 7, 2000 to the undersigning attorney setting forth some of the details of Mr. Bernstein's invention.

As demonstrated by the attached Declaration, conception of the invention of this application was complete before July 31, 2000. The attached documents demonstrate Mr. Bernstein's diligence from before July 31, 2000 until the above-identified application was filed on February 5, 2001. Since Oytac was not filed until July 31, 2000, Oytac is not prior art. Since Oytac is not prior art, the rejections are now improper and should be withdrawn.

Rejections under 35 U.S.C. §103

Claims 7, 15, 21 stand rejected under 35 U.S.C. §103(a) as being obvious over Oytac in view of U.S. Pat. Appl. No. US 2002/0077901 to Katz. Applicant respectfully traverses this rejection.

As demonstrated above, Oytac is not prior art. In addition, Katz fails to teach such features as the formation of a customer profile or forwarding customer information in summary form only.

Since Oytac is not prior art and Katz fails to teach or suggest at least these claim limitations, the rejections are improper and should be withdrawn.

Closing Remarks

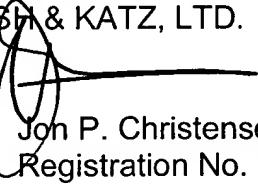
For the foregoing reasons, applicant submits that the subject application is in condition for allowance and earnestly solicits an early Notice of Allowance. Should the Primary Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, the Primary Examiner is respectfully requested to call the undersigned at the below-listed number.

The Commissioner is hereby authorized to charge any additional fee which may be required for this application under 37 C.F.R. §§ 1.16-1.18, including but not limited to the issue fee, or credit any overpayment, to Deposit Account No. 23-0920. Should no proper amount be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal, or

even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 23-0920. A duplicate copy of this sheet(s) is enclosed.

Respectfully submitted,  
WELSH & KATZ, LTD.

By

  
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August 7, 2006  
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MEMO

TO: File Department  
FROM: Jon P. Christensen  
DATE: October 2, 2000  
RE: New File  
FOR: Client: Robert Bernstein  
Client No.: 4707  
Billing Attorney: 002/ASK

Title of New File(s)

# 81342 Pat: METHOD OF TARGETING CUSTOMERS

File Book Entry  
File (patent) Completed  
File To: Jon P. Christensen  
Master Cardex  
Attorney Cardex  
Cognition  
Danyl

cc: ASK/ld

## **Christensen, Jon**

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**From:** BobECS@aol.com  
**Sent:** Thursday, December 07, 2000 2:58 PM  
**To:** jpchristensen@welshkatz.com  
**Subject:** new patent outline

### Integration of data mining into POS marketing

#### Current State of the Art

Vendors utilize one dimensional methods to target customers at POS (point of sale). Given limitations of data sources, vendors now use information based on one store, one product, or one form of payment. Commonly, POS is where vendors use data mining to give customers promotions. For example, "Jewel Cards" are used to give discounts on selected merchandise. Coupons may be distributed based on current or prior purchases at one vendor. Credit card companies use promotions based on use of their credit cards at various merchants. Large vendors do joint marketing when they share a target market. i.e. mileage programs where hotels, car rental companies and credit card issuers cross promote. These outlets for marketing are not integrated and are inefficient when compared to this invention.

#### Basis of Invention

This invention aggregates data from all merchants, from all means of payment, and all points of sale into a consumer profile that is comprehensive and detailed.

(Reference is made to the Portable Account controller patents and the Collection of Taxes patent application) Given this comprehensive data base and the ability to communicate with consumers electronically at POS (POS being check out counter, telephone catalog purchases or internet ecommerce, all POS) at time of purchase, it is now possible to provide a highly efficient marketing methodology for vendors and serve consumer needs for timely and appropriate marketing opportunities.

#### Example

Currently a tv vendor, a pizza store and a liquor store are unlikely to market together. The tv vendor is mass market, the pizza store is small and local, and the liquor store is not likely to hook up with a pizza store, let alone a tv vendor.

Consider a customer of a tv retailer who is given a promotion for the other stores when buying a new tv. Or a customer of the liquor store being given a pizza or tv offer when buying beer. Or the customer of the pizza store being given tv or beer promotion when buying pizza. All of these are possible and appropriate when the consumer is hosting a party for watching a tv program. (like the super bowl or other sporting event). None of the three merchants now cross promote because they don't have the means or the information to do so. Current systems are unable to be highly targeted and offer real time promotional opportunities because their data is not integrated. If the tv is bought at "Best buy" on a store charge, then it is invisible to the credit card company. Cash purchases at the pizza store are also left out. A check for the liquor store is similarly out of the data loop.

In order to reach customers, vendors use a "shotgun" approach to market for the masses (like super-bowl ads that are shown to everyone) or highly targeted narrow promotions that fail to reach their targeted market. (Print advertising or radio ads are not read or heard by everyone who the vendor would like to reach.) By integrating data from all modes of payment it is possible to efficiently market to a highly specific consumer at time of purchase.

#### Another perspective

Consumers are exposed to vast amounts of unsolicited and wasteful marketing. Using this invention it is possible for a consumer to subscribe to a service that offers valuable, highly specific buying opportunities. I believe that

people will pay for the opportunity to get these opportunities. (The credit cards that offer mileage on airline travel are a good example. Another is the Amazon.com ability to offer " if you would like more books like this one please...")

On the vendor side they will have enormous efficiencies by using integrated data as described above. They will be able to save advertising money that can be translated into customer savings opportunities.) Small vendors can find low cost, but highly effective, opportunities that are currently beyond their reach.

#### The Invention

An integrated data mining system that has input from all forms of payment and all points of sale. This input creates a highly detailed consumer profile that allows vendors to:

1. target their marketing for a highly efficient means of promotion and cross vendor promotion that is at POS in real time
2. Join a "pull" based service that consumers agree to join (or pay to subscribe) for the benefit of being offered promotions that are specific to their total buying history.

Essential to effective marketing is the determination of the target market and the efficient, appropriate access to that target market. Current methodologies are fragmented and less optimal compared to this invention.